HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No. 177 of 2007

Between:

Patnam Yashoddamma and seven others

... Appellants

And

The Joint Collector, Ranga Reddy District
and twelve others

... Respondents

::JUDGMENT::

Counsel for the appellants: Shri C. Malla Reddy, Senior Advocate assisted by Shri G. Anandam

Counsel for respondent Nos.5 to 11: Ms.Shakeera Banu

August 07, 2007

Per G.S. Singhvi, CJ

This appeal is directed against order dated 26.10.2006 of the learned Single Judge whereby he dismissed Writ Petition No. 21987 of 2006 filed by the appellants for quashing order dated 4.7.2006 passed by Joint Collector, Ranga Reddy District (respondent No. 1) in

Case No.F1/3557/2002 filed under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the 1955 Act').

The appellants are the legal heirs of Patnam Mallaiah, who obtained tenancy certificate under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950. Respondent No.13 – K. Sai Reddy, taking advantage of the fact that only his name was entered in the revenue records as cultivator, filed an application under Section 8 of the 1955 Act for grant of Occupancy Rights Certificate (ORC). Revenue Divisional Officer, Chevella Division, Ranga Reddy District (respondent No.2) vide his order dated 29.9.2001 allowed the application. The appellants challenged that order by filing an appeal under Section 24 of the 1955 Act. During the pendency of the appeal, the parties compromised the matter and the appeal was disposed of on 6.4.2001 in terms of the compromise. Thereafter, respondent No.2 issued revised ORC on 20.6.2002 and cancelled the earlier ORC dated 29.9.2001. Accordingly, the Mandal Revenue Officer entered the names of the appellants in the pahani for the year 2002-2003.

Respondent Nos.3 to 12 challenged the ORC dated 20.6.2002 by filing an appeal. They also filed Writ Petition No.14707 and 23980 of 2002, which were disposed of by this Court by directing respondent No.1 to pass appropriate order on the appeal. In furtherance of the direction given by the Court, respondent No.1 passed order dated 4.7.2006 whereby he set aside the ORC granted in favour of the appellants.

The writ petition filed by the appellants was dismissed by the learned Single Judge by relying on an earlier judgment in **A.P.Punjabi Sabha, Hyderabad v. Joint Collector, Hyderabad**[1].

When the appeal was listed for hearing on 22.2.2007, Shri C. Malla Reddy, learned Senior Counsel appearing for the appellants made a grievance that the writ petition filed by his clients was disposed of by the learned Single Judge without hearing him. In view of his statement, the Court directed him to file affidavit in support of this assertion. Thereafter, Shri G. Anandam, advocate filed affidavit dated 25.7.2007, paragraph 4 of which reads as under:

> "4. I submit that on 26th day of October, 2006, when the writ petition was taken up for hearing on admission, the learned Single Judge dismissed the said writ petition in limine by pronouncing the orders as "dismissed" on the ground that in the similar circumstances a writ petition was dismissed and despite a specific request to afford an opportunity to go through the similar orders, no opportunity was afforded. Therefore, this affidavit is filed to the above said effect."

A copy of the affidavit has been supplied to the counsel representing respondent Nos.5 to 11, but no counter has been filed.

Shri C. Malla Reddy argued that the order under challenge is liable to be set aside because before dismissing the writ petition, the learned Single Judge did not hear him. He emphasized that the learned Single Judge straightaway pronounced dismissal of the writ petition by saying that the issue raised by the petitioners is covered by the judgment of **A.P. Punjabi Sabha, Hyderabad** (supra) and the request made by him for grant of time to study the said judgment was also not entertained by the learned Single Judge.

Learned counsel for respondent Nos.5 to 11 supported the order of the learned Single Judge and the one passed by respondent No.1 on 4.7.2006 by arguing that the appellants are not entitled to ORC and respondent No.2 committed a jurisdictional error by accepting the compromise entered into between the appellants and respondent No.13. She, however, did not controvert the assertion made by the counsel for the appellants that the writ petition was dismissed by the

learned Single Judge without hearing him.

We have considered the entire matter. Since respondent Nos.5 to 11 have not controverted paragraph 4 of affidavit dated 25.7.2007 of Shri G. Anandam, advocate wherein the deponent has categorically averred that the writ petition was dismissed by pronouncing one word “dismissed” without giving opportunity to the counsel to go through the similar order, we are inclined to hold that the order under challenge suffers from violation of the rules of natural justice and is liable to be set aside only on that ground.

In our country, the rules of natural justice are integral part of the judicial process. The jurisprudence developed in last sixty years enjoins upon every Court to afford reasonable opportunity of hearing to the parties. If they are represented by the advocates, then the Court is duty bound to hear them. The same rule applies if the parties are allowed to appear in person. If opportunity of hearing is denied to either of the parties or the counsel appearing on their behalf are not allowed to address the Court in support of the cause of their clients, then the order or judgment passed by the Court will always be susceptible to the attack of arbitrariness and violation of the rules of natural justice.

In view of the above discussion, the appeal is allowed. The order of the learned Single Judge is set aside. The writ petition filed by the appellants may now be listed before an appropriate Bench for fresh adjudication.

As a sequel to disposal of the writ appeal, WAMP No.309 of 2007 filed by the appellants for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

August 07, 2007

C.V. NAGARJUNA REDDY, J

svs

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[1] 2004 (5) ALD 644